

Testimony HB389 2.11.2015

Chairman Miller, Members of the Committee

My name is Liz Moore. I am with the Montana Nonprofit Association. I'm here this afternoon in opposition of the proposed legislation to require department of revenue review of tax exempt properties.

Montana Nonprofit Association represents 650 nonprofit member organizations from across the state. We speak today on behalf of more than 6000 501(c)(3)s serving in every Montana county except one.

After talking with Representative Essmann, as well as representatives from the Department of Revenue, we continue to have questions about this bill.

We understand and appreciate the Department's wish to clean up missing records and ensure the state has an accurate accounting of tax exempt property. MNA would welcome the opportunity to work with the Department to educate and encourage nonprofits in some sort of a cleanup process. However, we have two questions:

- We don't understand why this would need to be re-done every six years. Can we not do it once and then do upkeep?
- Also - if indeed a primary goal is cleaning up records, why would nonprofits be required to pay a fee for an internal agency process? Would this not amount to a tax? Applications for property tax exemption are done on a piece by piece basis - not on an organizational basis. So it can add up for organizations to pay a fee for each application - even if the fee is modest.

So assuming that records could be made right one time and then maintained, is there another reason for requesting re-application every six years? Is there a question about whether the property is continuing to be used for tax exempt purposes? If so, where is that question coming from? Is there a track record of nonprofits changing use of the property and not paying taxes? And if there is a record, is it enough to justify the fiscal note? We understand there may be an occasional wrong doer, but we have not heard of problems in this area, and certainly haven't heard of any that would justify a \$125,000 fiscal note.

--

In addition to paying a fee, owners of tax exempt property would be required to send in paperwork with the application. Currently, the paperwork required as part of the property tax exemption application includes:

- Articles of Incorporation (if incorporated) • Constitution and By-Laws (if not incorporated) • Internal Revenue Service Tax Exempt Status Letter (i.e., a copy of 501(c)3 letter; • Healthcare Facility - License from the Department of Health • Education - Copy of attendance policy and proof of a definable curriculum with

systematic instruction • A letter explaining how the organization is specifically using the personal property • A photograph of the property

These aren't particularly onerous requirements. Nonprofits are used to paperwork, especially if they partner with government through grants and contracts, and many that own property are in that position. But two thirds of Montana's charitable nonprofits are completely volunteer run, and many of them have assets – some of which are undoubtedly real property.

I ran the Exempt Organization Master List yesterday. In Montana, there are almost 9,867 registered tax exempt organizations. 4,681 of them had less than \$5000 in income according to their 2013 tax return. And yet, they held almost \$16 million in assets. Flathead Valley Veterans Memorial, Search and Rescue, Friends of the Fairview Bridge, Victor Schools Foundation – all examples of nonprofits with no revenue, but some amount of assets – likely real property. Nonprofits large and small have boards that turn over, volunteers come and go, and suddenly its not a simple thing to layer yet another reporting requirement on. Is the problem (which is unclear) worth this extended and intricate solution?

MNA also has questions about what the reasoning would be for requiring a list of tax exempt property to be made public. Again we ask – what's the problem we're trying to solve? Value of real property is included on the Form 990, which is the tax form almost all nonprofits are required to file. Right now any 990 is available at no cost through GuideStar, and due to a recent ruling – it's thought that 990s will very soon be much more accessible electronically than they are now. This isn't a question of charitable nonprofits not wanting to be transparent. Our tax form is public, making us the most transparent corporate structure that exists. It's a question of whether there is a problem that justifies even more reporting. And in addition, this bill begs the question – why are we calling for a public list of property that is exempt – including who owns the property, but we're not going to ask for a public list of businesses that receive tax credits, what they receive them for, and how much the credits are worth?

MNA's membership has approved a public policy agenda that includes transparency and accountability. We recognize and embrace the responsibility for public trust we carry by virtue of our tax exempt status. At the same time, we are asked to be stewards of both our money and our time. We resist what appear to be unnecessary or unclear regulations that do not lift the nonprofit sector or the communities we serve in some discernable way.

Obviously not all nonprofits are purely volunteer run. Less than one third of Montana's nonprofits pay wages, and yet the sector employs almost 47,000 Montanans. We help drive the economy not only by paying wages, but by paying payroll taxes, renting property, leveraging the contributions of donors and volunteers. Montana's nonprofit entities bring so much to the table. MNA respectfully asks that you do not pass forward legislation that adds unnecessary regulatory requirements and fees to the nonprofit sector – be they volunteer or large employers, particularly without being clear on how the bill would strengthen the sector or benefit the communities served by nonprofits. Thank you.